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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/905,040	07/12/2001	Gary A. Demos	07314-011001	2221
20985 7	590 04/17/2003			
FISH & RICHARDSON, PC 4350 LA JOLLA VILLAGE DRIVE SUITE 500			EXAMINER	
			AN, SHAWN S	
SAN DIEGO, CA 92122			ART UNIT	PAPER NUMBER
			2613	<del>\( \)</del>
			DATE MAILED: 04/17/2003	. 0

Please find below and/or attached an Office communication concerning this application or proceeding.



# Office Action Summary

Application No. 09/905,040

Applicant(s)

Gary A. Demos

Examiner

Shawn An

Art Unit 2613



The MAILING DATE of this communication appears	on the cover sheet with the correspondence address
Period for Reply	
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET THE MAILING DATE OF THIS COMMUNICATION.	TO EXPIRE <u>three</u> MONTH(S) FROM
- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In	no event, however, may a reply be timely filed after SIX (6) MONTHS from the
mailing date of this communication.  If the period for reply specified above is less than thirty (30) days, a reply within the lift NO period for reply is specified above, the maximum statutory period will apply a Failure to reply within the set or extended period for reply will, by statute, cause the lift of the lif	and will expire SIX (6) MONTHS from the mailing date of this communication. he application to become ABANDONED (35 U.S.C. § 133).
Status	
1) Responsive to communication(s) filed on	·
2a) This action is <b>FINAL</b> . 2b) X This act	tion is non-final.
3) Since this application is in condition for allowance closed in accordance with the practice under Ex pa	except for formal matters, prosecution as to the merits is arte Quayle, 1935 C.D. 11; 453 O.G. 213.
Disposition of Claims	·
4) 💢 Claim(s) <u>1-78</u>	is/are pending in the application.
4a) Of the above, claim(s)	is/are withdrawn from consideration.
5)  Claim(s)	is/are allowed.
6) Claim(s)	is/are rejected.
7) Claim(s)	is/are objected to.
8) 💢 Claims <u>1-78</u>	are subject to restriction and/or election requirement.
Application Papers	
9) $\square$ The specification is objected to by the Examiner.	
10)☐ The drawing(s) filed on is/are	a) $\square$ accepted or b) $\square$ objected to by the Examiner.
Applicant may not request that any objection to the d	
11) The proposed drawing correction filed on	is: a) $\square$ approved b) $\square$ disapproved by the Examiner.
If approved, corrected drawings are required in reply	to this Office action.
12) $\square$ The oath or declaration is objected to by the Exam	iner.
Priority under 35 U.S.C. §§ 119 and 120	
13) Acknowledgement is made of a claim for foreign p	riority under 35 U.S.C. § 119(a)-(d) or (f).
a) □ All b) □ Some* c) □ None of:	
1. ☐ Certified copies of the priority documents hav	
2. Certified copies of the priority documents hav	
3. ☐ Copies of the certified copies of the priority deposition from the International Bure  *See the attached detailed Office action for a list of the	
14) Acknowledgement is made of a claim for domestic	•
a) The translation of the foreign language provisional	
15) Acknowledgement is made of a claim for domestic	
Attachment(s)	
1) Notice of References Cited (PTO-892)	4) Interview Summary (PTO-413) Paper No(s).
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) Notice of Informal Patent Application (PTO-152)
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s)	6) Cther:

Application/Control Number: 09/905,040

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#### **DETAILED ACTION**

#### Election/Restriction

1. This application contains claims directed to the following patentably distinct species of the claimed invention: **eleven** distinct species as depicted in claims (1-6, 8, 15, 18, 21, 24), (27-32, 34, 41, 44, 47, 50), and (53-58, 60, 67, 70, 73, 76), respectively.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed specie on the basis of the corresponding claims listed above, and to indicate to the Examiner which of the claims 1-78 read on the elected claims of the disclosed specie for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claim is considered generic.

Applicant is advised that a response to this requirement must include an identification of the specie that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

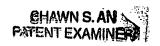
Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently

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named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

### Conclusion

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shawn An whose telephone number (703) 305-0099 and schedule are Tuesday through Friday.



SSA

April 16, 2003